

## § 31.3123-1

of a payment that consists of transition benefits, provided that the allocation method is consistent with the terms of the plan.

[64 FR 4567, Jan. 29, 1999]

### § 31.3123-1 Deductions by an employer from remuneration of an employee.

Any amount deducted by an employer from the remuneration of an employee is considered to be part of the employee's remuneration and is considered to be paid to the employee as remuneration at the time that the deduction is made. It is immaterial that any act of Congress or the law of any State requires or permits such deductions and the payment of the amount thereof to the United States, a State, or any political subdivision thereof.

## Subpart C—Railroad Retirement Tax Act (Chapter 22, Internal Revenue Code of 1954)

### TAX ON EMPLOYEES

#### § 31.3201-1 Measure of employee tax.

The employee tax is measured by the amount of compensation received for services rendered as an employee. For provisions relating to compensation, see § 31.3231(e)-1. For provisions relating to the circumstances under which certain compensation is to be disregarded for the purpose of determining the employee tax, see paragraphs (b)(1) and (2) of § 31.3231(e)-1.

[T.D. 8582, 59 FR 66189, Dec. 23, 1994]

#### § 31.3201-2 Rates and computation of employee tax.

(a) *Rates*—(1)(i) *Tier 1 tax*. The Tier 1 employee tax rate equals the sum of the tax rates in effect under section 3101(a), relating to old-age, survivors, and disability insurance, and section 3101(b), relating to hospital insurance. The Tier 1 employee tax rate is applied to compensation up to the contribution base described in section 3231(e)(2)(B)(i). The contribution base is determined under section 230 of the Social Security Act and is identical to the old-age, survivors, and disability insurance wage base and the hospital insurance wage base, respectively,

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under the Federal Insurance Contributions Act.

(ii) *Example*. The rule in paragraph (a)(1)(i) of this section is illustrated by the following example.

*Example*. A received compensation of \$60,000 in 1992. The section 3101(a) rate of 6.2 percent would be applied to A's compensation up to \$55,500, the applicable contribution base for 1992. The section 3101(b) rate of 1.45 percent would be applied to the entire \$60,000 of A's compensation because the applicable contribution base for 1992 is \$130,200.

(2)(i) *Tier 2 tax*. The Tier 2 employee tax rate equals the percentage set forth in section 3201(b) of the Code. This rate is applied to compensation up to the contribution base described in section 3231(e)(2)(B)(ii).

(ii) *Example*. The rule in paragraph (a)(2)(i) of this section is illustrated by the following example.

*Example*. A received compensation of \$60,000 in 1992. The section 3201(b) rate of 4.90 percent would be applied to A's compensation up to \$41,400, the applicable contribution base for 1992.

(b)(1) *Computation*. The employee tax is computed by multiplying the amount of the employee's compensation with respect to which the employee tax is imposed by the rate applicable to such compensation, as determined under paragraph (a) of this section. The applicable rate is the rate in effect when the compensation is received by the employee. For rules relating to the time of receipt, see § 31.3121(a)-2 (a) and (b).

(2) *Example*. The rule in paragraph (b)(1) of this section is illustrated by the following example.

*Example*. In 1990, employee A received compensation of \$1,000 as remuneration for services performed for employer R in 1989. The employee tax is payable at the rate of 12.55 percent (7.65 percent plus 4.90 percent) in effect for 1990 (the year the compensation was received), and not the 12.41 percent rate (7.51 percent plus 4.90 percent) in effect for 1989 (the year the services were performed).

[T.D. 8582, 59 FR 66189, Dec. 23, 1994]

#### § 31.3202-1 Collection of, and liability for, employee tax.

(a) *Collection; general rule*. The employer shall collect from each of his employees the employee tax imposed with respect to the compensation of